

AMENDMENTS TO THE DRAWINGS:

The attached sheet of drawings includes changes to Figure 2. This sheet, which includes Figures 1-3, replaces the original sheet including Figures 1-3.

In Figure 2, element 31 is amended to flex in a direction askew to the vertical direction of the polyaxial pedicular screw 1.

Attachment: Replacement Sheet(s)

REMARKS

The application has been amended and is believed to be in condition for allowance. This amendment is provided as part of a Request for Continued Examination ("RCE").

Amendments to the Disclosure

Figure 2 is amended as provided below to overcome the Official Action's objection to the drawings.

The claims are amended to address antecedent basis issues and other issues in consideration of U.S. practice in view of the Official Action's general rejection of the claims under 35 USC 112, second paragraph.

Claim 1 is further amended to recite that the elements of the extension piece have outermost external diameters configured such that the nut of the invention slides freely over an entire length of the extension piece. The amendment finds support in the specification and the drawing figures as originally filed (e.g., page 2, lines 25-30; page 5, lines 12-16; Figures 1-2).

Claims 5 and 10-12 are also further amended to clarify the distinguishing feature over the prior art. The amendment finds support in the specification and the drawing figures as originally filed (e.g., page 3, lines 16-22; page 5, lines 17-21).

New claims 15-21 further distinguish the instant invention over the prior art. The new claims find support in the specification, the drawing figures, and the claims as originally filed. In particular, dependent claims 15-16 correspond to former independent claims 13-14; claims 13-14 are canceled without prejudice. New independent claim 18 recites the invention in a different form, and dependent claims 19-21 correspond to original dependent claims 5-7.

No new matter is introduced by way of the foregoing amendments.

Formal Matters - Objections to the Drawings

The Official Action objected to the drawing figures stating that the "flexible structure" recited in claims 5, 10-12 and the "metal wire has spires" recited in claims 6-7 are not shown in the drawing figures as filed.

In response, Figure 2 is amended to illustrate the body 31 extension piece 5 flexing in a manner described by the specification as originally filed (e.g., page 5, lines 17-21). In particular, the body 31 is shown to flex in comparison to the body 31 as illustrated in Figure 1.

In addition, it is respectfully submitted that body 31, as illustrated at least in Figure 2, teaches a "metal wire" with "spires". The specification describes a "flexible structure... in the form of a metal wire wound into a spiral," (page 3, lines 20-22). Body 31, as shown in Figures 1 and 2, is illustrated as

a series of coils, also known as “spires” (see, e.g., spire. Dictionary.com. *Dictionary.com Unabridged (v 1.1)*. Random House, Inc. <http://dictionary.reference.com/browse/spire> (accessed: June 11, 2009): “1. a coil or spiral”; “2. one of the series of convolutions of a coil or spiral”).

It is therefore respectfully submitted that a “flexible structure” as recited in claims 5, 10-12 and a “metal wire has spires” as recited in claims 6-7, are each adequately illustrated in the drawing figures, at least as to one of skill in the art, at least by Figure 1 as originally filed and Figure 2 as amended.

Withdrawal of the objection to the drawings is thereby respectfully solicited.

Formal Matters - Section 112, second paragraph

The Official Action rejected claims 1-14 under 35 USC 112, second paragraph as being indefinite.

The Official Action identified specific recitations in claims 1 and 13-14 and further states that the claims are generally narrative and indefinite.

In response, the claims are amended in a manner believed to overcome the Official Action’s rejection for indefiniteness. Withdrawal of the rejection under 35 USC 112, second paragraph is respectfully requested.

Substantive Issues - Section 103

The Official Action rejected claims 1-4, 8, 9, and 13-14 under 35 USC 103(a) as being unpatentable over Taylor et al.

(US 6,267,765; "TAYLOR") in view of Asnis et al. (US 5,217,462; "ASNIS").

The Official Action rejected claims 5-7 and 10-12 under 35 USC 103(a) as being unpatentable over TAYLOR and ASNIS, and further in view of Beyar (US Pub. 2002/0095181; "BEYAR").

The Official Action further rejected claims 5-7 and 10-12 under 35 USC 103(a) as being unpatentable over TAYLOR and ASNIS, and further in view of Giannakakos (US 2003/0086772; "GIANNAKAKOS").

The rejections are respectfully traversed for at least the reasons that follow.

As to claim 1, the Official Action contends that TAYLOR teaches an extension piece that is removable from a threaded stud. The Official Action identifies TAYLOR column 5, lines 31-33, wherein TAYLOR teaches that a shank 7 having a narrowed portion 18 between a first threaded portion 17 and a second threaded portion 19 comprises a break initiator, and that once fitting is complete, the shank 7 is broken at narrowed portion 18, separating the second threaded portion 19 from the first threaded portion 17.

The Official Action asserts that it would have been obvious to modify TAYLOR to incorporate the threaded engagement taught by ASNIS so that the lengths of the shank may be modified as desired.

In response, it is firstly submitted that claim 1 has been amended. It is respectfully submitted that neither TAYLOR nor ASNIS, individually or in combination, teach or suggest an extension piece comprising a body and an end distal portion each having an outermost external diameter configured such that the nut, in coaxial engagement with said extension piece, slides freely over an entire length of said extension piece.

On the contrary, TAYLOR make no teaching or suggestion of an extension piece separated from the proximal threaded stud and thus respective positioning means for positioning this extension piece concentrically with respect to the proximal threaded stud.

At best, TAYLOR teaches a threaded shank 7, having two threaded portions 17 and 19, both of which are equally configured to engage with the nut 8 in threaded engagement (column 5, lines 48-52). Even when the threaded portion 19 is separated from the threaded portion 17 by breaking the shank 7 at narrowed portion 18, the separated threaded portion 19 fails to teach an extension piece as recited where the nut slides freely over its entire length as the threaded portion 19 is unambiguously taught by TAYLOR to engage with the nut 8.

Further, ASNIS fails to teach or suggest an extension piece whereof the external diameter is configured in order to let the nut (4) slide freely thereon.

It is therefore respectfully submitted that TAYLOR and ASNIS, individually or in combination, fail to teach or suggest all the features required by amended claim 1. Accordingly, it is respectfully submitted that claim 1 is patentable over the cited references.

It is also respectfully submitted that claims depending from claim 1 are patentable at least for depending from a patentable parent claim.

For example, it is respectfully submitted that none of the cited references, individually or in combination, teach or suggest the feature recited in dependent claim 5 as amended. In particular, neither of BEYAR and GIANNAKAKOS teach or suggest a head portion of an extension piece that is a flexible structure configured to be positioned askew to a direction of extension of the extension piece.

On the contrary, each of BEYAR and GIANNAKAKOS teach a flexible (e.g., wire) structure wrapped around an extension piece. The "head portion" of each of the extension pieces recited by the references (the "solid body" of paragraphs 112 and 114 of BEYAR; bolt element 12 of Figure 1 and paragraph 19 of GIANNAKAKOS) are each disclosed as solid; no teaching or suggestion is offered that these elements have any flexible properties as required by amended claim 5.

It is further respectfully submitted that new independent claim 18, and claims depending therefrom, are

patentable over the cited references at least for the reasons set forth above.

Reconsideration and allowance of the claims are respectfully requested.

From the foregoing, it will be apparent that Applicants have fully responded to the February 12, 2009 Official Action and that the claims as presented are patentable. In view of this, Applicants respectfully request reconsideration of the claims, as presented, and their early passage to issue.

In order to expedite the prosecution of this case, the Examiner is invited to telephone the attorney for Applicants at the number set forth below if the Examiner is of the opinion that further discussion of this case would be helpful.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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APPENDIX:

The Appendix includes the following item(s):

- ☒ - a Replacement Sheet for Figures 1-3 of the drawings